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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PIG NEWTON, INC.,

Plaintiff,

-against-

THE BOARDS OF DIRECTORS OF THE
MOTION PICTURE INDUSTRY PENSION
PLAN, THE MOTION PICTURE INDUSTRY
INDIVIDUAL ACCOUNT PLAN, AND THE
MOTION PICTURE INDUSTRY HEALTH PLAN,

Defendants.

13-CIV-7312 (KPF)

ECF Case

**DECLARATION OF BLAIR
BREARD IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT**

BLAIR BREARD hereby declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am the Chief Operating Officer of Pig Newton, Inc. ("Pig Newton").
2. I am the Executive Producer of the television series entitled "Louie" (the "Series"), which recently completed its fourth season. The Series has been exhibited on F/X, the basic cable network, since its inception in 2010.
3. I have personal knowledge of the facts set forth in this declaration, which I make in support of Plaintiff's Motion for Summary Judgment.

4. The Series is produced by Pig Newton, a New York corporation.

5. Louis Szekely is the sole owner of Pig Newton.

6. Mr. Szekely is the creator of the Series, and from its outset he has worn several hats: as its producer, sole writer, editor, sole director, and star performer. Pig Newton employs Mr. Szekely in connection with each of these functions for the Series, as well as other individuals who perform services related to the Series.

7. Pig Newton is a party to a number of collective bargaining agreements (“CBAs” and, individually, a “CBA”) with various unions, and it contributes to the various unions’ affiliated benefit funds on behalf of Mr. Szekely and Pig Newton’s other employees. For example, Pig Newton is a signatory to a CBA with SAG-AFTRA (actors union), the Directors Guild of America (“DGA”) (directors union), the Writers Guild of America (“WGA”) (writers union), and various local unions affiliated with the International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists, and Allied Crafts, AFL-CIO, CLC (“IA” or the “Union”), and the International Brotherhood of Teamsters (“IBT”).

8. Mr. Szekely’s editing work is covered work under the IA CBAs. Specifically, his editing work is covered by Local 700, IA.

9. The IA CBAs to which Pig Newton is bound require contributions to the Motion Picture Industry Pension Plan, the Motion Picture Industry Individual Account Plan, and the Motion Picture Industry Health Plan (the “Plans”) on behalf of covered employees “for all hours worked or guaranteed” in certain specified amounts.

10. The “guarantees” referred to in the IA CBAs are specified minimum hours that must be paid regardless of how many hours are actually worked by an employee. For example,

the IA CBA requires that a minimum of eight (8) hours be paid per day regardless of the number of hours actually worked.

11. Pig Newton contributed to the Plans on behalf of Mr. Szekely for the following periods in which he performed editing work:

<u>Year</u>	<u>Period</u>	<u>Number of Hours</u>
2011	4/17/11 – 7/16/11	50 hours per week
2013	2/17/13 – 3/2/13	50 hours per week
2014	3/9/14 – 3/22/14	40 hours per week

12. The short period each season for which Pig Newton reported hours to the Plans on behalf of Mr. Szekely is due to the fact that his editing responsibilities required a small portion of his time. The allocation of Mr. Szekely's total compensation among his various services highlights this point. For example, of the total compensation paid to Mr. Szekely in connection with Season 2 of the Series, 44% was for producer services, 27% was for writing services (he was the sole writer), 14% was for directing services (he was also the sole director), 7% was for his services as a performer, and the remainder, just 8% of his total compensation, was for editorial services.

13. Prior to receiving correspondence from the Plans in 2012, I was unaware of the Plans' "Controlling Employee" Rules that are being challenged in this litigation.

14. Beginning in 2012, and continuing to date, the Plans have alleged that Pig Newton is delinquent in its contributions to the Plans, and have demanded contributions and attendant damages under the Controlling Employee Rules.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 11, 2014.



Blair Breard